

CHAPTER 279

METROPOLITAN LAW ENFORCEMENT AGENCY

ARTICLE I. IN GENERAL

Sec. 279-101. Definitions.

As used in this chapter, the following terms shall have the meanings ascribed to them in this section.

Advisory council means the metropolitan law enforcement advisory council established pursuant to section 279-201 of this chapter.

Board means the metropolitan law enforcement merit board established by section 279-232 of this chapter.

Chief means the chief of the metropolitan law enforcement agency appointed under section 279-221 of this chapter.

Metropolitan law enforcement agency or agency means the Indianapolis Metropolitan Police Department, as established by section 279-102 of this chapter.

Sheriff's department means the Marion County Sheriff's Department.

Sec. 279-102. Establishment and jurisdiction.

(a) The metropolitan law enforcement agency is established effective January 1, 2006 through the consolidation of the Indianapolis Police Department and the county police force of the sheriff's department as authorized by IC 36-3-1-5.1, and as provided by this chapter. The agency constitutes:

- (1) The legal successor-in-interest to both the Indianapolis Police Department and the county police force of the sheriff's department; and
- (2) The police division of the city department of public safety.

(b) The metropolitan law enforcement agency shall provide law enforcement services for the consolidated city effective January 1, 2007. The agency may provide law enforcement services in an excluded city as provided in IC 36-1-7.

Sec. 279-103. Transfer of members from other departments; effect on length of service and participation in pension plans; and assumption of labor agreements.

(a) After December 31, 2006:

- (1) Members of the Indianapolis Police Department cease employment with the consolidated city; and
- (2) County police officers cease employment as county police officers; and become members of the metropolitan law enforcement agency under this chapter.

(b) For purposes of this chapter, whenever a certain length of service with the agency is required for a particular appointment, a member of the agency with service as a member of the Indianapolis Police Department or a county police officer with the sheriff's department before January 1, 2007, shall have that service included in determining the member's total length of service with the agency.

(c) As provided in IC 36-3-1-5.1, a member whose employment transfers to the agency under this section:

- (1) Remains a member of the pension fund, or an employee beneficiary of the pension trust in which the member participated prior to January 1, 2007;
- (2) Retains pension fund or pension trust benefits and credit for service earned that accrued prior to January 1, 2007; and

(3) Continues to earn service credit in the pension fund or pension trust as a member of the agency for purposes of determining the member's eligibility for benefits.

(d) With respect to agreements with labor organizations, the agency shall assume all such agreements that:

(1) Are in effect on the effective date of the consolidation; and

(2) Apply to employees of either the Indianapolis Police Department or the sheriff's department and whose employment transfers to the agency under this section.

(e) Members of the metropolitan law enforcement agency may not be assigned to divisions of the sheriff's department. Provided, however, at the sheriff's discretion, county police assigned to non-law enforcement divisions within the department on December 31, 2006, may continue such assignments through December 31, 2010. The agency shall charge the department for the costs, including wages and benefits, associated with such a temporary assignment. Such employees shall not hold any rank in the agency higher than their permanent rank during such temporary assignment.

(f) The chief, with the approval of the director of the department of public safety, shall endeavor to assign and maintain members of the agency in a manner to achieve the goal of proportional representation of former police officers and sheriff's deputies throughout the divisions and appointed ranks of the agency, including disciplinary board of captains appointments provided in subsection 279-237(j), through December 31, 2010.

Sec. 279-104. Transitional merit process.

(a) Effective January 1, 2006, the existing merit promotions lists of both the Indianapolis Police Department and the sheriff's department shall expire. Prior to January 1, 2007, the two (2) departments shall engage in joint promotional processes for all merit ranks.

(b) For the period from January 1, 2007, through December 31, 2010, the chief, with the approval of the merit board, shall endeavor to promote members of the agency in a manner to achieve the goal of proportional representation of former police officers and sheriff's deputies throughout the divisions and appointed ranks of the agency.

ARTICLE II. ORGANIZATION

DIVISION 1. METROPOLITAN LAW ENFORCEMENT CONSOLIDATION TRANSITION ENTITIES

Sec. 279-201. Law enforcement advisory council.

(a) The law enforcement advisory council is hereby established, and shall be composed of the following members:

(1) The sheriff;

(2) One (1) member appointed by the mayor;

(3) Two (2) members appointed by the city-county council, who may not be from the same political parties;

(4) One (1) member with public safety expertise, appointed as provided by the city-county council;

(5) One (1) member with management expertise, appointed as provided by the city-county council;

(6) One (1) member with expertise in municipal finance and budgeting, appointed as provided by the city-county council; and

(7) The public safety director.

- (b) The advisory council shall have, at a minimum, the following duties and responsibilities:
- (1) Review planning and operations of the agency;
 - (2) Review relevant fiscal matters;
 - (3) Receive citizen input;
 - (4) Make recommendations to the public safety director and chief on matters of priority and policy; and
 - (5) Exercise all powers necessary, convenient, or appropriate to perform the duties listed in subdivisions (1) through (4) of this subsection.
- (c) The advisory council is a public agency for purposes of IC 5-14-1.5 and IC 5-14-3.
- (d) Four (4) members of the advisory council constitute a quorum for the transaction of business.
- (e) The advisory council shall hold regular meetings at least once a month.

DIVISION 2. IN GENERAL

Sec. 279-221. Appointment and qualifications of chief; powers and duties.

(a) The metropolitan law enforcement agency shall be under the direction of a chief, who serves at the pleasure of the director of the department of public safety.

(b) The director of the department of public safety shall appoint the chief of the metropolitan law enforcement agency, after consultation with the sheriff and subject to city-county council confirmation. The chief shall serve at the pleasure of the public safety director. The chief, after consultation with the sheriff, shall appoint members to the rank of assistant chief, deputy chief, district deputy chief or equivalent positions, and shall present them in person to the sheriff and to the city-county council's public safety and criminal justice committee annually.

(c) In order to qualify for appointment, the chief must meet the requirements under IC 36-8-4-6.5.

(d) If a person was a member of the metropolitan law enforcement agency before the person's appointment as the chief of the metropolitan law enforcement agency, upon the expiration of the person's term as chief, the board shall appoint the person to the permanent rank in the agency that the person held at the time of the person's appointment as chief.

(e) If the person, during the person's tenure as chief, has qualified, in accordance with the promotion procedure prescribed by the board in its rules, for a rank in the agency that is higher than the rank the person held before the person's appointment as chief, the board shall, upon the expiration of the person's term as the chief, appoint the person to the rank for which the person has qualified under the promotion procedure, if there is a vacancy in that rank.

(f) The chief shall have the powers and duties assigned to him or her in this chapter, and as otherwise provided by law. Specifically, the chief shall be responsible for establishing a system of orders and procedures for the agency, hiring and discipline as provided by the merit system, and day-to-day operations of the agency.

(g) The chief is hereby designated to serve as the co-applicant for a warrant or an extension of a warrant under IC 35-33.5-2.

Sec. 279-222. Appointment of members.

Members of the metropolitan law enforcement agency who are not transferred to the agency under section 279-103 of this chapter shall be appointed as provided in division 3 of this article.

Sec. 279-223. Members' powers and duties.

(a) Each member of the metropolitan law enforcement agency has:

(1) The powers set forth in IC 36-8-3-6; and

(2) The powers set forth in IC 36-8-10-9 that are not set forth in IC 36-8-3-6 and that are not reserved to the sheriff under Section 281-612 of the Code.

(b) The members of the metropolitan law enforcement agency shall perform law enforcement duties as assigned by the director of the department of public safety or as required by law.

Sec. 279-224. Budget and salaries; provision for payment of expenses.

(a) The expenses of the metropolitan law enforcement agency are a part of the budget. The chief, with the approval of the public safety director, shall recommend the number and salary of the members of the metropolitan law enforcement agency, but the city-county council shall finally determine the budget and salaries of the agency.

(b) The consolidated city, the police special service district, and the county may levy property taxes as provided by law to provide for the payment of the expenses for the operation of the agency.

Sec. 279-225. Uniforms.

The city shall furnish the members of the agency with the uniforms or other clothing that they need to perform their duties. However, after one (1) year of service in the agency, a member may be required by the city to furnish and maintain the member's own uniform or other clothing upon payment to the member by the county of an annual cash allowance.

Sec. 279-226. Civilian employees.

(a) The metropolitan law enforcement agency shall make maximum use of civilian employees in positions not requiring fully trained or empowered police officers. The board shall prescribe and promulgate such rules and regulations as it deems necessary concerning the employment and management of such civilians. The chief, subject to the approval of the director of the department of public safety, shall be responsible for the hiring and supervision of all civilian employees of the agency.

(b) All civilian employees of the agency, other than those in appointive positions, shall be considered merit employees. All civilian personnel management programs shall be administered in accordance with the merit systems outlined in division 3 of this article.

(c) All civilian employees shall serve as probationers for one (1) year from the date of employment. During this time, the employment of such employee may be terminated by the chief with or without cause, and such termination shall be final and not subject to review. If his or her employment is not otherwise terminated, such employee shall become a regular employee at the end of one (1) year and is subject to termination or discipline thereafter in conformity with the agency's rules and regulations.

Sec. 279-227. Eligibility for take-home cars.

Eligibility to participate in the take-home car program shall be determined in compliance with established policy, as the same may be amended from time to time by the director of the department of public safety.

DIVISION 3. MERIT SYSTEM

Sec. 279-231. Designation of merit system.

Pursuant to IC 36-3-1-5.1, the merit system established in this article is hereby designated the merit system for the metropolitan law enforcement agency.

Sec. 279-232. Merit board established.

(a) The merit board for the metropolitan law enforcement agency is established, effective January 1, 2007.

(b) The board and merit systems of the Indianapolis Police Department and the sheriff's department are abolished, and the duties of those boards are transferred and assumed by the board, effective January 1, 2007 unless otherwise provided in this chapter.

Sec. 279-233. Appointment or election of board members; qualifications.

(a) The board consists of seven (7) members as follows:

- (1) Four (4) members appointed by the director of the department of public safety;
- (2) For the first term of the board, one (1) member appointed by the metropolitan law enforcement consolidation transition authority;
- (3) For all subsequent terms of the board, one (1) member appointed by the city-county council; and
- (4) Two (2) members elected by a majority vote of the active members of the agency.

(b) An active member of the metropolitan law enforcement agency may not serve on the board.

(c) The term of office for an appointed or elected member of the board is four (4) years, beginning on the date the member is qualified and assumes office, or for the remainder of an unexpired term. Members of the board serve during their respective terms and until their successors have been appointed and qualified.

(d) Not more than:

- (1) Two (2) of the members appointed by the public safety director; or
- (2) One (1) of the members elected by the members of the metropolitan law enforcement agency;

may belong to the same political party.

(e) Each member of the board must reside in the county.

(f) Each member of the board may be removed for cause duly adjudicated by declaratory judgment of the Marion Superior Court.

(g) Each member of the board is entitled to receive reimbursement from the county for actual expenses incurred while serving as a member.

(h) As soon as practicable after they are appointed and elected, the members of the board shall meet upon the call of the public safety director and organize by electing a president and a secretary from among their membership.

(i) Four (4) members of the board constitute a quorum for the transaction of business.

(j) The board must hold regular monthly meetings throughout the year as is necessary to transact the business of the metropolitan law enforcement agency.

Sec. 279-234. Classification of ranks, grades and positions; appointment of members.

(a) The board shall establish a classification of ranks, grades, and positions for members of the metropolitan law enforcement agency. For each rank, grade, and position, the chief, with the approval of the board, shall:

- (1) Set reasonable standards of qualifications; and
- (2) Fix the prerequisites of training, education, and experience.

(b) An individual may not be appointed or reappointed as a member of the metropolitan law enforcement agency after December 31, 2006, unless the individual:

- (1) Is less than thirty-six (36) years of age; and

(2) Passes:

- a. The aptitude, physical agility, and physical examination required by the local board; and
- b. The statewide baseline standards required by IC 36-8-8-19; however, this subsection does not apply to an individual who becomes a member of the metropolitan law enforcement agency under section 279-103 of this chapter.

(c) The chief, with the approval of the board, shall devise and administer examinations designed to test applicants for the qualifications required for the respective ranks, grades, or positions. After these examinations, the chief and the board shall jointly prepare a list naming only those applicants who, in the opinion of both the chief and the board, best meet the prescribed standards and prerequisites. The chief only appoints members of the metropolitan law enforcement agency from among the persons whose names appear on this list. All members appointed to the metropolitan law enforcement agency under this chapter are on probation for one (1) year after the date of appointment.

(d) The chief, in his or her sole discretion, may:

(1) Establish a temporary administrative rank or position within the agency; and

(2) Appoint to and remove from a temporary administrative rank or position a member of the metropolitan law enforcement agency who meets the requirements in subsection (e) of this section.

(e) Except as provided by sections 279-103 and 279-104 of this chapter, a member who has served as a member of the agency at least five (5) years before the appointment and holds the merit rank of at least lieutenant is eligible for appointment to a temporary administrative rank or position described in subsection (d) of this section. A member retains the rank, grade, or position awarded under subsection (c) of this section while serving in a temporary administrative rank or position. A temporary administrative rank or position established under subsection (d) of this section does not diminish or reduce the number and classifications of the existing merit ranks within the metropolitan law enforcement agency. Subsection (d) of this section and this subsection may not be construed to limit, modify, annul, or otherwise affect a collective bargaining agreement.

Sec. 279-235. Preferences for employment, promotions and appointments.

(a) Except as provided in subsections (b) and (c) of this section, the board shall give a preference for employment to a war veteran who has been honorably discharged from the United States Armed Forces.

(b) The board shall establish process phases and procedures for use in screening applicants to the department and members seeking promotion or appointment within the department. The board and the chief may use the services of professional consultants from outside the department to assist in developing and administering the process. The process phases shall be established in conformity with standard psychometric procedures, federal and state guidelines relating to selection methods, equal employment opportunity laws, court decisions and decrees that are binding on either the Indianapolis Police Department or the Marion County Sheriff's Department on the original effective date of this section, and generally acceptable law enforcement standards. The process may include, but need not be limited to, such phases as preliminary screening, physical agility testing, written examinations, interviews, background investigations, psychological testing, medical examinations, and polygraph examinations related specifically to the application process.

(c) A person described in subsection (a) of this section may not receive a preference for employment unless the person applies for such employment, and meets all employment requirements prescribed by:

(1) Law, including physical and age requirements; and

(2) The metropolitan law enforcement agency.

Sec. 279-236. Rules and regulations.

The board shall establish written rules and regulations governing the discipline of members of the metropolitan law enforcement agency. Rules and regulations established under this section must conform to

the disciplinary procedure required by section 279-237 of this chapter.

Sec. 279-237. Discipline; merit board procedures and appeals.

(a) The civilian police merit board of the metropolitan law enforcement agency shall establish disciplinary policies for use in all disciplinary matters of the agency. The merit board, in conjunction with the chief, subject to approval of the director of the department of public safety, shall establish the rules and regulations for the agency. All disciplinary charges shall be based on these rules and regulations.

(b) Disciplinary actions within the agency shall be in one (1) of the following forms:

- (1) Written reprimand;
- (2) Suspension without pay;
- (3) Demotion;
- (4) Discharge.

(c) An officer may be placed on leave with pay for up to thirty (30) calendar days by the chief pending determination of final disciplinary action. Such leave with pay shall be considered a duty status and not a punishment.

(d) The chief shall have the ultimate authority to discipline any member of the agency, subject only to the restrictions outlined below. In making his determination, the chief may refer the matter to a disciplinary board of captains for recommendation. Following his determination in a disciplinary matter, the chief may:

- (1) Issue a written reprimand.
- (2) Suspend an officer without pay for up to six (6) calendar months. If the suspension is for more than ten (10) working days, the officer may appeal that portion of the suspension greater than ten (10) days to the merit board. Such appeal must be made within thirty (30) calendar days of notice of the action.
- (3) Demote the officer in rank by one (1) merit rank. Any demotion may be appealed to the merit board within thirty (30) calendar days of notice of action.
- (4) Recommend discharge of the officer to the merit board. Upon referral of the matter to the merit board, the merit board shall conduct a de novo administrative hearing of record as provided in subsection (k) of this section. Pending determination by the merit board, the officer shall be placed on suspension without pay.
- (5) Reinstate with pay any officer who previously was suspended without pay.

Provided, however, that the chief shall consult with the director of the department of public safety regarding any discipline exceeding a ten (10) day suspension.

(e) Departmental superiors shall have the authority to discipline subordinate officers as outlined below. However, these superiors may recommend any of the above disciplinary actions to the chief through the chain of command.

- (1) The assistant chief, deputy chiefs and majors may issue a written reprimand or suspend an officer for not more than ten (10) working days without pay. The chief may delegate additional disciplinary authority to the assistant and deputy chiefs.
- (2) Captains may issue a written reprimand or suspend an officer for not more than three (3) working days without pay.
- (3) Lieutenants may issue a written reprimand or suspend an officer for not more than two (2) working days without pay.
- (4) Sergeants may issue a written reprimand or suspend an officer for one (1) working day without pay.

(f) Officers in non-merit appointed ranks who are classified by the agency as exempt executive, administrative or professional employees pursuant to the provisions of the Fair Labor Standards Act are not subject to unpaid disciplinary suspensions other than for violations of safety rules of major significance unless the suspension is for the period of an entire workweek or a specified number of full workweeks.

(g) All disciplinary actions taken by anyone except the chief shall be forwarded in writing to the disciplinary board of captains through the chain of command within three (3) working days of the action. The disciplinary board of captains shall ensure due process and consistency of discipline throughout the department. This disciplinary board may conduct an administrative review of the matter, request further investigation by internal affairs or other appropriate personnel, or hold a hearing on the matter.

(h) If a hearing is held by the disciplinary board of captains, the officer charged shall be notified in writing of the charges, the time and date of the hearing, and the officer's right to receive in advance of the hearing a copy of any witness statement or other document that will be considered at the hearing. In such hearings, and pursuant to departmental policy, the officer shall have the right to have counsel present and to have witnesses subpoenaed by the board of captains to testify in his or her behalf upon advance notice to the board. All testimony before the captains' board shall be under oath, and any individual appearing before the board shall cooperate fully and answer all questions truthfully and directly. The hearing before the captains' board shall be conducted in accordance with the written directives of the chief and the merit board. After the hearing, the board of captains shall, upon majority vote, reduce to writing its findings of either guilty or not guilty.

(i) The disciplinary board of captains shall report the results of its review and/or hearing to the chief for determination. Included in this report shall be the disciplinary board's findings and recommendations. If the finding is "guilty," the disciplinary board shall also make its recommendations for punishment. The chief may concur with the captain's board in full or in part or may fully or partially reverse its recommendations.

(j) The disciplinary board of captains shall consist of three (3) officers holding the permanent merit rank of captain, who shall serve for a period of three (3) months. Each captain shall be selected at random. The names of the captains shall be drawn from a list of all eligible captains by the police officer ranking first on the most current sergeant's promotion list who shall serve for a period of three (3) months and who shall then be succeeded by the next highest ranking officer on such list who shall serve for a three-month period and so forth. If a vacancy occurs on the board of captains by reason of a board member becoming unable to perform his duties and serve on such board, the vacancy shall be filled in the same manner in which the board was selected.

(k) Disciplinary actions addressed by the merit board on appeal from the officer shall be handled through administrative hearing. This hearing shall be de novo and shall be a hearing of record. In making an appeal, the officer shall submit a written request for appeal to the merit board within thirty (30) calendar days of notice of disciplinary action. The merit board then shall schedule the hearing, providing the officer with at least fifteen (15) calendar days' notice prior to the hearing date; however, if there are criminal charges pending against the officer that arose from substantially the same conduct, circumstances, or subject matter that gave rise to the disciplinary action, then the merit board shall not conduct the hearing until after such criminal charges have been resolved at the trial level. The evidence before the merit board shall consist of the written charges and action taken on such charges, the findings of fact and recommendations from the chief and/or the disciplinary board of captains, and any other evidence requested by the merit board or presented by the charged officer.

(l) The officer requesting an appeal and the chief may be represented by legal counsel before the merit board.

(m) After hearing the evidence, the merit board shall, by majority vote, reduce its findings and decision to writing. The merit board may fully or partially affirm or reverse any portion of the chief's determination which is appealable. In addition, the merit board may remand the action for further review by the chief.

(n) If the officer is found not guilty by the merit board, any pay he or she may have lost due to suspension, or any rank lost due to demotion, shall be returned to the officer.

(o) Any officer who disagrees with the findings of the merit board shall have the right to file a verified petition to the Superior or Circuit Court of Marion County for a review of the decision. The petition for review must be filed within thirty (30) calendar days after the written decision of the board. The City of Indianapolis

shall be the sole defendant in the petition for review. Within thirty (30) calendar days after receipt of a summons, the city shall cause the merit board to file a true and complete copy of the transcript of the hearing with the court. The court, without jury, shall review the record and render its decision as in other administrative reviews. The clerk of the court shall send a copy of the court's decision to the metropolitan law enforcement agency and the appealing officer. Either party may appeal the decision of the court.

(p) For the purpose of all hearings before the disciplinary board of captains and the merit board, each shall have subpoena power enforceable by the circuit or superior court of the county.

(q) A copy of any disciplinary action taken and of the findings of fact and recommendations of the board shall be forwarded to the charged officer. In addition, if an officer is found guilty, notice of the action shall be forwarded to the merit board and made a permanent part of the officer's personnel record.

DIVISION 4. MISCELLANEOUS

Sec. 279-241. Residency of members.

A member of the agency shall reside within Marion County or a county contiguous to Marion County; however, this section does not apply to a member of the agency who:

- (1) Was a member of the Indianapolis Police Department and becomes a member of the agency under section 279-103 of this chapter; and
- (2) Resided outside the county on January 1, 1975.

Sec. 279-242. Political activity of members.

A member of the metropolitan law enforcement agency may:

- (1) Be a candidate for elective office and serve in that office if elected;
- (2) Be appointed to an office and serve in that office if appointed;
- (3) Except when in uniform or on duty, solicit votes or campaign funds for the member or others; and
- (4) Not be dismissed, demoted, or temporarily suspended because of political affiliation or activity that is authorized by this section.

Sec. 279-243. Member who becomes sheriff; effect on rank.

(a) If a person who is a member of the metropolitan law enforcement agency becomes sheriff, either by election or by appointment, upon the expiration of the person's term as sheriff and upon the person's written application, the board shall appoint the person to the rank in the agency that the person held at the time of the person's election or appointment as sheriff, if there is a vacancy in the agency.

(b) If the person, during the person's tenure as sheriff, has qualified, in accordance with the promotion procedure prescribed by the board in its rules, for a rank in the agency that is higher than the rank the person held before election or appointment as sheriff, the board shall, upon the expiration of the person's term as sheriff, appoint the person to the rank for which the person has qualified under the promotion procedure, if there is a vacancy in that rank.

Sec. 279-244. Reserved.

Sec. 279-245. Procedures in the event of reduction in force.

(a) As used in this section, appointing authority means the chief and the board.

(b) When it is necessary for financial reasons for the appointing authority to reduce by layoff the number of members of the metropolitan law enforcement agency, members shall be laid off in reverse hiring order, with the last member appointed to the agency being the first to be laid off, until the desired level of employment is achieved.

(c) If the metropolitan law enforcement agency's membership is increased, the members of the agency who have been laid off under subsection (b) of this section shall be reinstated before any new member is appointed to the agency. Members shall be reinstated in reverse of the order in which the members were laid off with the last member laid off from the agency being the first to be reinstated.

(d) A member of the metropolitan law enforcement agency who is laid off shall keep the appointing authority advised of the member's current address. The appointing authority shall inform a member of the member's reinstatement by written notice sent by certified mail to the member's last known address.

(e) Not later than twenty (20) days after the date the notice of reinstatement is sent under subsection (d) of this section, the member shall advise the appointing authority whether the member:

(1) Accepts reinstatement; and

(2) Will commence employment on the date specified in the notice.

(f) All reinstatement rights granted to a member under this section terminate on the earlier of:

(1) The date the member fails to accept reinstatement within the time specified in subsection (e) of this section; or

(2) Three (3) years after the date on which a member's layoff begins.

DIVISION 5. RESERVE MEMBERS OF THE METROPOLITAN LAW ENFORCEMENT AGENCY

Sec. 279-251. Created; chief to supervise; maximum number of members.

Pursuant to authority granted by and subject to the limitations of IC 36-8-3-20, there is hereby created a branch of the metropolitan law enforcement agency to be known as the metropolitan law enforcement agency reserves, which branch shall be under the direction and command of the chief or his or her designee. The number of members of the reserves shall be no greater than forty (40) percent of the authorized strength of sworn personnel of the agency.

Sec. 279-252. Chief and chief's reserve staff to supervise appointments, promotions, discipline, and operation administrative policy.

The supervision of all appointments to the reserves, matters of promotions, discipline and operation administrative policy shall be by the chief or his or her designee following such procedures as the chief shall establish by adopting rules and regulations governing the same.

Sec. 279-253. Qualifications for appointment; eligibility requirements; application and examination.

a. No person shall be appointed to the reserves until he or she has completed the training and probationary period specified by the chief, except those persons transferring to the reserves from a recognized police agency or association.

b. Any citizen of the United States, who is a resident of Marion County, Indiana, and who is not younger twenty-one (21) nor older than sixty-five (65) years of age shall be eligible to make application to become a member of the reserves.

c. Applicants shall make application in the form and manner and undergo such physical and academic examinations and interviews as the chief shall require.

Sec. 279-254. Chief to design and establish uniform; unlawful representation as member.

(a) All manner of uniform, badge, insignia, equipment and other identifying characteristics of the reserves shall be designed and established by the chief, subject to the approval of the director of the department of public safety.

(b) It shall be unlawful and punishable in accordance with section 103-3 of this Code for a person to

wear such uniform, badge or insignia of the reserves, or hold himself or herself out to be a member of the reserves, unless that person has been duly appointed and sworn as provided by this division.

Sec. 279-255. Appointment; members not to belong to regular police force; conferral of police powers.

Appointment to the reserves shall be made by the chief. Members of the reserves may not be members of any regular police force. Members of the reserves shall have the same police powers as regular members of the metropolitan law enforcement agency pursuant to Section 279-223 of the Code, subject to such limitations as the chief may establish by adopting rules and regulations governing the same, subject to the approval of the director of the department of public safety.

Sec. 279-256. Mandatory retirement age; termination procedure.

(a) Members of the reserves may serve from their appointment until reaching the mandatory retirement age of seventy (70) years, or until terminated pursuant to subsection (b) of this section.

(b) Any member of the reserves may be terminated by the chief for any reason after consultation with the director of the department of public safety.

Sec. 279-257. Injury or sickness contracted in performance of duty.

(a) The county shall pay for the care of a member of the reserves who suffers an injury while performing his or her duty or contracts sickness caused by the performance of this duty, provided it is obtained at a facility designated and approved by the county. This care includes:

- (1) Medical and surgical care;
- (2) Medicine and laboratory, curative, palliative agents and means;
- (3) X-rays, diagnostic and therapeutic service including the recovery period; and
- (4) Hospital and special nursing care if the physician or surgeon in charge considers it necessary for proper recovery.

(b) Expenditures required by subsection (a) shall be paid from the county general fund.

Sec. 279-258. Transfer of reserves from Indianapolis Police Department and Sheriff's Department.

(a) After December 31, 2006, reserves of the Indianapolis Police Department and reserves of the sheriff's department become reserves of the metropolitan law enforcement agency under this chapter.

(b) For purposes of this chapter, whenever a certain length of service with the agency is required for a particular appointment, a reserve of the agency with service as a reserve of the Indianapolis Police Department or the Sheriff's Department before January 1, 2007, shall have that service included in determining the reserve's total length of service with the agency.

ARTICLE IV. PENSIONS AND OTHER BENEFITS

Sec. 279-401. Determination of pension fund membership.

(1) A member of the county police force who was an employee beneficiary of the sheriff's pension trust before the consolidation of the law enforcement departments and after the consolidation becomes a law enforcement officer of the consolidated law enforcement department remains an employee beneficiary of the sheriff's pension trust. The member retains, after the consolidation, credit in the sheriff's pension trust for service earned while a member of the county police force and continues to earn service credit in the sheriff's pension trust as a member of the consolidated law enforcement department for purposes of determining the member's benefits from the sheriff's pension trust.

(2) Management of the sheriff's pension trust shall continue as currently constituted.

(3) A member of the police department of the consolidated city who was a member of the 1953 fund or the 1977 fund before the consolidation of the law enforcement departments and after the consolidation becomes a law enforcement officer of the consolidated law enforcement department remains a member of the 1953 fund or the 1977 fund. The member retains, after the consolidation, credit in the 1953 fund or the 1977 fund for service earned while a member of the police department of the consolidated city and continues to earn service credit in the 1953 fund or the 1977 fund as a member of the consolidated law enforcement department for purposes of determining the member's benefits from the 1953 fund or the 1977 fund.

(4) Whether members of the agency are subject to Social Security withholding shall be determined by the Social Security Administration in accordance with federal and state law. No member of the sheriff's department who becomes a member of the agency and remains in the sheriff's department pension plan will be removed from Social Security against his/her wishes.

(5) A member who is appointed or re-appointed to the metropolitan law enforcement agency after December 31, 2006, who was not employed by the sheriff's department or the Indianapolis Police Department on December 31, 2006, is a member of the 1977 fund.

(6) Members of the sheriff's department and of the police department shall not suffer any loss in pay, pension, or fringe benefits by reason of such consolidation. Sick leave, longevity and vacation time accrued by such members prior to consolidation shall be credited to members, subject to existing contracts. Nothing in this provision limits the ability of members, their collective bargaining agent and/or the metropolitan law enforcement agency from negotiating pay, pension, fringe benefits or other job benefits.

(7) No members of the sheriff's department or police department shall be terminated due to this consolidation. Members shall retain the merit ranks they attained prior to consolidation, subject to changes due to disciplinary or other similar action.

Sec. 279-402. Leaves and holidays.

(a) Members of the metropolitan law enforcement agency who were transferred to the agency from the Indianapolis Police Department or the county police force of the sheriff's department shall retain their leave accruals and holiday schedules as set forth in existing collective bargaining agreements between the Fraternal Order of Police Lodge No. 86 and the respective departments until such time as those agreements may be renegotiated with the metropolitan law enforcement agency.

(b) Members of the metropolitan law enforcement agency who are appointed by the agency after December 31, 2006, who are not covered by subparagraph (a) shall accrue leaves and observe the holiday schedule as set forth in the collective bargaining agreement between the Fraternal Order of Police Lodge No. 86 and the Marion County Sheriff's Department for the period from January 1, 2003 through December 31, 2006 until such time as that agreement is renegotiated with the metropolitan law enforcement agency.

(c) Upon the negotiation of any collective bargaining agreement(s) between the metropolitan law enforcement agency and the bargaining agent of the members of that agency, the leaves and holiday schedules set forth in such agreement(s) shall apply as set forth in such agreement(s).

Sec. 279-403. Maximum monthly pension.

For merit deputies of the sheriff's department who are member of the sheriff's pension plan and who retire during the period from January 1, 2006, through December 31, 2006, for purposes of determining such deputies' maximum monthly pension, and pursuant to authority granted by IC 36-8-10-12.1(a), IC 36-8-10-12.1 shall apply instead of IC 36-8-10-12(j).

Sec. 279-404. Cost of living pension adjustment.

(a) This section is authorized by IC 36-8-10-23.

(b) A cost of living adjustment ("COLA") payment shall be determined annually commencing in 1998. The amount of the COLA payment shall be determined annually by the pension engineers, as they are defined by IC 36-8-10-2. The pension engineers shall determine if there has been an increase in the

Consumer Price Index (United States City Average) prepared by the United States Department of Labor, by comparing the arithmetic mean of the Consumer Price Index for January, February, and March of the payment year with the same three-month period of the preceding year. If there has been an increase, the increase shall be stated as a percentage of the arithmetic mean for the three-month period for the year preceding the payment year ("the adjustment percentage"). The adjustment percentage shall be rounded to the nearest one-tenth of one (1) percent, and it may not exceed two (2) percent in any year beginning January 1, 1998.

(c) The COLA payment authorized under this section shall be funded by maintaining a fully funded actuarially sound trust fund and shall be paid monthly to each authorized retired or disabled county police officer.

(d) This section and the COLA payment shall apply only to retired or disabled county police officers who either are or become at least fifty-five (55) years of age after the effective date of this section.

CHAPTER 251

DEPARTMENT OF PUBLIC SAFETY

Sec. 251-101. Department of public safety created; duties.

(a) *Created.* There is hereby created a department of public safety for the consolidated city as provided by IC 36-3-5-4.

(b) *Duties.* It shall be the responsibility of the department of public safety to provide fire protection in the fire special service district, to provide police protection in the consolidated city, to operate an animal control division, provide civil defense and emergency management planning, operate a division of weights and measures and exercise other powers granted by law, the city-county council or the mayor. The department of public safety shall have all powers and duties prescribed for it as of August 31, 1983, subject to IC 36-3-4-23.

DIVISION 3. CITIZENS' POLICE COMPLAINT PROCESS

Sec. 251-131. Citizens' police complaint office established.

(a) The citizens' police complaint office is established as part of the department of public safety. Any complaint of a citizen against an officer of the Indianapolis Metropolitan Police Department alleging that the officer used profane and abusive language or intentionally destroyed or damaged real or personal property, exceeded his/her authority as a police officer, used unauthorized force, or acted in violation of the Department's rules and regulations or orders may be filed with the citizens' police complaint office. In addition, if a complainant alleges that intimidation tactics are being used to impede the filing of a complaint, the complainant shall report this to the complaint office and a separate complaint will be filed regarding the new information. Each complaint shall be filed within sixty (60) days of the action giving rise to the complaint, shall be in writing, and shall be signed by the person making the complaint, who shall affirm under the penalties of perjury that the representations contained therein are true. The complaint may be filed in person or by facsimile or through the mail. Additionally, complaints may be filed after the expiration of the sixty-day time period where the person making the complaint was under a legal disability during the sixty-day time period or where, upon a showing of good and sufficient cause and upon majority vote of the citizens' police complaint board, a person is permitted to belatedly file a complaint.

(b) Any individual personally aggrieved by the act or acts complained of may file a complaint. A parent or guardian may file a complaint on behalf of a minor or incompetent individual. A member of the immediate family of a decedent may file a complaint on behalf of the decedent. The complaint board may, upon two-thirds (2/3) vote of its members, initiate an action.

(c) The complaint process shall be accessible to all citizens regardless of race, national origin, ancestry, religion, color, sex, sexual orientation, gender identity, age, language, disability, or United States military service veteran status.

Sec. 251-132. Citizens' police complaint board established; election process; terms.

(a) The citizens' police complaint board is established, and shall be composed of nine (9) voting members, two (2) ex-officio, nonvoting police advisory members, and one (1) ex-officio, nonvoting rank-and-file consulting member to be selected as follows:

- (1) All voting members shall be citizens who are residents of the consolidated city. No sworn law enforcement officer is eligible to serve as a voting member of the board. Voting members may be selected from nominees submitted by the six (6) Indianapolis Metropolitan Police Department district task forces which are convened by the deputy chief of each district. Exception can be that in the event a vacancy is not or cannot be filled in a timely manner per the provisions of this division, the original appointing body may make the appointment using its normal process for making appointments. No district task force may nominate more than three (3) candidates for appointment to the board. There must be at least one (1) voting member from each Indianapolis Metropolitan Police Department district task force on the citizens' police complaint board, with no more than three (3) from any one district.
- (2) Six (6) of the members shall be appointed by the city-county council. No more than four (4) of these six (6) members may be of the same political party. Two (2) of these members shall serve for a one-year term ending December 31, 2008, two (2) of these members shall serve for a two-year term ending December 31, 2009, and two (2) of these members shall serve for a three-year term ending December 31, 2010, or until their successors are appointed and confirmed, but for no longer than sixty (60) days beyond the expiration of their term.
- (3) Three (3) of the members shall be appointed by the mayor. One (1) of these members shall serve for a one-year term ending December 31, 2008, one (1) of these members shall serve for a two-year term ending December 31, 2009, and one (1) of these members shall serve for a three-year term ending December 31, 2010, or until their successors are appointed and confirmed, but for no longer than sixty (60) days beyond the expiration of their term.
- (4) Upon the expiration of any voting member's term, an appointment will be made to his position by the original appointing body, for a term of three (3) years. Each member may be reappointed to a three-year term, but may serve no more than two (2) consecutive terms on the board, including the board established by Section 251-132 (repealed). If a member is unable to complete his/her term for any reason, the original appointing body shall appoint a new member to complete the term. Such new member shall then be eligible to be reappointed for no more than one (1) additional full consecutive term, if he/she has served eighteen (18) months or more of the original term, and no more than two (2) additional full consecutive terms, if he/she has served less than eighteen (18) months of the original term.
- (5) The two (2) ex-officio, nonvoting police members of the board shall be appointed as follows: one (1) by the mayor; and, one (1) by the city-county council. Such members shall serve two-year terms ending on December 31 in even-numbered years, and shall:
 - a. Have been members of the Indianapolis Police Department, the county police force of the Marion County Sheriff's Department, the Indianapolis Metropolitan Police Department, or any combination thereof, for more than (7) years;
 - b. Have participated in ethics training;
 - c. Have strong community relations experience;
 - d. Be of the rank of sergeant or below in rank, preferably a patrolman; and
 - e. Not serve more than two (2) consecutive terms on the board, including the board established by Section 251-132 (repealed).
- (6) The one (1) ex-officio, nonvoting rank-and-file consulting member shall be appointed by the President of the Fraternal Order of Police and shall serve a one-year term ending on December 31 of the year of appointment.

(b) All members shall serve at the pleasure of the appointing officials.

Sec. 251-133. Complaint board officers, quorum, attendance, and training.

(a) The voting members shall select one (1) voting member to serve as president of the complaint board.

(b) Five (5) voting members of the complaint board shall constitute a quorum for the purpose of conducting business, and five (5) voting members must vote in favor of any item before any action or disposition can be taken.

(c) All voting and ex-officio complaint board members must attend a minimum of seventy-five (75) percent of the meetings. The appointing authority shall replace any member who fails to meet this attendance requirement within sixty (60) days of written notice of failure to meet this attendance standard.

(d) All voting members of the complaint board must participate in twenty (20) hours of training in police procedures, to be completed within six (6) months of their appointment, and shall receive an additional twenty (20) hours of such training per year. In addition, each voting member shall be required to accompany an on-duty officer of the metropolitan law enforcement agency for a minimum of sixteen (16) hours per year, and for a minimum of four (4) hours per occasion, in order to observe police procedures first-hand. The appointing authority shall replace any member who fails to meet these training requirements after written notice to such member of failure to meet these standards.

Sec. 251-134. Complaint board duties.

The citizens' police complaint board shall meet as often as necessary to consider all complaints which it deems appropriate to process and review, but no less than quarterly. The complaint board shall set rules for its governance and shall establish its procedures for processing complaints and for ensuring notification to citizens of the status and disposition of their complaints.

Sec. 251-135. Complaint office executive director; staff.

(a) The director of the department of public safety after consultation with the sheriff shall appoint a full-time executive director of the citizens' police complaint office, subject to approval by the city-county council. The executive director shall be supervised by and subject to review and evaluation by the public safety director, with the advice and consent of the members of the citizens' police complaint board. The duties of the executive director shall include:

- (1) Managing the citizens' police complaint office, including its staff; and
- (2) Enhancing communications and good will between the police and the citizenry.

(b) The executive director shall have the authority to contract with investigators and legal counsel, if the city corporation counsel is not available, to aid in the investigation of complaints filed with or processed by the office.

(c) The executive director shall be in regular communication with the chief of the metropolitan law enforcement agency and may make recommendations to the chief concerning matters of conduct and recurring issues that are processed by the citizens' police complaint office. The executive director shall also provide periodic reports for publication in the metropolitan law enforcement agency's annual report.

(d) Staffing and budget recommendations for the citizens' police complaint office shall be made by the public safety director in consultation with the executive director and the citizens' police complaint board.

(e) On a quarterly basis, the executive director shall forward a report of each complaint board member's attendance and each voting member's training, as required by section 251-133, to the member's appointing body, the public safety director, and the chief of the metropolitan law enforcement agency.

Sec. 251-136. Complaint investigation and hearing procedures.

(a) Upon the filing of a complaint, the executive director shall immediately send a copy of the complaint to the chief of the metropolitan law enforcement agency or the chief's designee. In addition, the officer or

officers alleged to be involved in the incident shall be notified of the date of the incident, and given a copy of the complaint. After the filing of a complaint, the complaint board shall table its own investigation for a period of sixty (60) working days to allow the metropolitan law enforcement agency to conduct its own investigation and to allow the chief to take appropriate action. The chief may request an extension of time to complete the investigation from the public safety director; however, if deemed appropriate or necessary, the complaint board may order the executive director to conduct an independent simultaneous investigation before the end of the investigation conducted by the metropolitan law enforcement agency. Such action must be authorized by a three-fourths (3/4) vote of the entire complaint board.

(b) When the investigation is returned to the citizens' police complaint office, the complaint board shall review the investigation conducted by the metropolitan law enforcement agency and the action taken by the chief, if any. The complaint board may dispose of the complaint by endorsing the findings and action taken by the agency and shall notify the chief of this in writing. If the complaint board does not agree with the action taken by the chief or with the results of the investigation conducted by the agency, the complaint board may, by majority vote:

- (1) Order the executive director to conduct an investigation into the allegations of the complaint; and/or
- (2) Conduct an informal administrative hearing on the complaint; and/or
- (3) Order the executive director to engage in a process of informal mediation to attempt to resolve the complaint.

(c) If the complaint board determines to hold a hearing, the complaint office shall give written notice to all parties and witnesses at least fifteen (15) days in advance of the scheduled hearing. All testimony at such hearing shall be given under oath and under penalty of perjury.

(d) Upon the completion of the investigation by the complaint office or after the hearing, the complaint board shall make a disposition regarding the complaint. The disposition shall be one (1) or more of the following:

- (1) Not sustained (when there is insufficient evidence to prove the allegation(s) made in the complaint by clear and convincing evidence);
- (2) Sustained (when there is sufficient evidence to prove the allegation(s) made in the complaint by clear and convincing evidence);
- (3) Exonerated (when the allegation made in the complaint is false or not factual, or the conduct complained of was lawful and proper); and/or
- (4) Withdrawn (when the complainant requests that no further action be taken on the case).

The disposition must be made within sixty (60) working days after the agency's investigation is returned to the complaint office or after the conclusion of the investigation conducted by the executive director pursuant to subsection (a) of this section.

(e) The findings and disposition of the complaint board shall be communicated to the chief in writing within ten (10) days of the date of the disposition.

(f) If the chief does not confirm the findings and disposition of the complaint board within thirty (30) days of disposition, or if there is a conflict between the findings and disposition of the complaint board and the findings of the chief, then the complaint board may, upon a majority vote of its members, require mediation between the chief and the executive director.

(g) Any disciplinary action taken against an officer due to his or her involvement in an incident which resulted in a complaint being filed with the complaint office shall be communicated to the complaint board for disclosure to the public.

Sec. 251-137. Subpoena powers.

For purposes of conducting an investigation or hearing, the complaint board shall have the power to subpoena witnesses and documents, except those documents relating to ongoing criminal investigations,

including such public records as are deemed subject to disclosure under the provisions of IC 5-14-3. The power of the complaint board to issue subpoenas shall be enforceable by the Marion County circuit or superior court.

Sec. 251-138. Access to board by officers; participation of officers.

- (a) Any officer subpoenaed to appear before the complaint board may be represented by an attorney.
- (b) Police officers shall have access to the complaint process to defend their actions, both during the investigatory and hearing processes.
- (c) Police officers shall be required to cooperate with the complaint board as an investigation is conducted, subject to their constitutional rights.

Sec. 251-212. Powers and duties of director.

The director of public safety shall have the following duties and powers with respect to the department of public safety:

- (1) To exercise control of all matters and property relating to and connected with the police, fire, emergency management planning, weights and measures, and animal control divisions;
- (2) To coordinate the activities of the department with the sheriff and coroner of the county and any other agencies which can help with the safeguarding of citizens and property throughout the county;
- (3) To purchase all necessary supplies and equipment and make all repairs necessary in the department subject to and in accordance with applicable law;
- (4) To make general and special rules and regulations for the government and discipline of the department, to the extent such duties and powers are not granted to the merit boards of the fire division or police division;
- (5) To fix the number of members and employees of the various divisions;
- (6) To determine and implement policies, procedures, methods and means by which operations are to be conducted;
- (7) To make recommendations to the director of administration relative to civilian employee compensation and benefits;
- (8) To temporarily appoint additional emergency management and civil defense protection forces on application of any person or corporation in any emergency, riot or insurrection as declared by the mayor, which persons the director may remove at any time without hearing or notice or assigning any cause;
- (9) To administer the oath or to take depositions of any persons summoned in any proceedings;
- (10) To adopt rules regulating the giving of a bond of an appointee of any division;
- (11) To appoint deputy or assistant directors as necessary;
- (12) To set work schedules and require members and employees of the department to work overtime;
- (13) To initiate, prepare, submit and administer the department's budget in accordance with applicable law;
- (14) To purchase, rent or improve any real estate or personal property, subject to appropriations therefor by the city-county council and subject to the powers of the mayor and the board of public safety;
- (15) To enter into contracts with town or township firefighting companies or associations for mutual civil

aid and assistance programs; for life-saving, firefighting, emergency services, ambulance services; for mutual communications services coordinating training programs; and central dispatching programs in accordance with applicable law;

- (16) To appoint, receive, suspend, discipline and transfer members of the department pursuant to applicable rules, regulations and statutes;
- (17) To supervise and coordinate the activities of divisions within the department;
- (18) To oversee the daily operation of the department;
- (19) To appoint an administrator to be the head of each division of the department, except the emergency management planning division, subject to the approval of the mayor as provided in IC 36-3-5-5;
- (20) To delegate to the personnel employed in the department authority to act in his behalf as provided in IC 36-3-5-5(c);
- (21) To procure for the consolidated city a set of the weights and measures provided in IC 24-6-2-1; and
- (22) Any other powers which may be granted by law or by the mayor or the city-county council.

Sec. 251-214. Director; general powers with respect to city police force.

The director of public safety shall have the following general powers and duties with respect to the police division of the department, along with such other specific powers and duties as may be enumerated in this article or in Chapter 279 of the Code, or as may be granted by the mayor, the city-county council or by law:

- (1) To exercise control of all matters and property relating to and connected with the police division, and to exercise control over all operational functions, including but not limited to dispatch and communications to the extent these functions have not been reserved by statute to a different unit of government, to effectuate these powers and duties;
- (2) To divide the city into geographic areas for administrative and operational purposes;
- (3) To administer and oversee the police division's merit system relating to appointment, transfer, discipline and removal of members and employees of the police division pursuant to applicable rules, regulations and laws in accordance with an established merit system;
- (4) To negotiate settlements or agreements with member representatives relating to compensation and benefits;
- (5) To make recommendations to the director of administration relating to employee compensation and benefits;
- (6) To temporarily appoint additional police on application of any person or corporation in any emergency, riot or insurrection as declared by the mayor; the director may remove persons so appointed at any time without hearing or notice or assigning any cause;
- (7) To fix the number of employees and members of the police division;
- (8) To make general and special rules and regulations for the administration and discipline of the police division, to the extent such duties and powers are not granted to the merit board;
- (9) To determine and implement policies, methods and means by which operations are to be conducted; and
- (10) To consult with the sheriff and coordinate activities of the police division with the sheriff and the coroner of the county.

Sec. 251-221. Divisions.

The department of public safety shall be composed of the following divisions:

- (1) *Fire division.* The duties and powers of the fire division are described in Chapter 252 of this Code.
- (2) *Police division.* The duties and powers of the police division are described in Chapter 279 of this Code.
- (3) *Weights and measures division.* The duties and powers of the weights and measures division are described in article V of this chapter.
- (4) *Animal care and control division.* The animal care and control division shall be established and have all powers and duties described in article III of this chapter, chapter 531, and any other powers granted by law or by the city-county council or the mayor.
- (5) *Emergency management planning division.* The duties and powers of the emergency management planning division are described in article IV of this chapter.